

DT 00-101

MAXCESS, INC.

**Petition for Authority to Provide
Local Telecommunications Services**

Order Nisi Granting Authorization

O R D E R N O. 23,483

May 16, 2000

On May 2, 2000, Maxcess, Inc. (Maxcess) filed with the New Hampshire Public Utilities Commission (Commission) a petition for authority to provide switched and non-switched local exchange telecommunications services, pursuant to the policy goals set by the New Hampshire Legislature in RSA 374:22-g, effective July 23, 1995.

Pursuant to Puc Chapter 1300, an applicant's petition for certification shall be granted when the Commission finds that (1) all information listed in Puc 1304.02 has been provided to the Commission; (2) the applicant meets standards for financial resources, managerial qualifications, and technical competence; and, (3) certification for the particular geographic area requested is in the public good.

The Commission Staff (Staff) has reviewed Maxcess's petition for compliance with these standards. Staff reports that the company has provided all the information required by Puc 1304.02. The information provided supports Maxcess's assertion of financial resources, managerial qualifications, and technical competence

sufficient to meet the standards set out in Puc 1304.01(b), (e), (f), and (g). Staff, therefore, recommends approval of Maxcess as a New Hampshire CLEC.

Maxcess has provided a sworn statement and request for waiver of the surety bond requirement in Puc 1304.02(b) stating that they do not require advance payments or deposits of their customers. Staff recommends granting the waiver.

We find that Maxcess has satisfied the requirements of Puc 1304.01(a)(1) and (2). In addition, we find that certification of Maxcess in its intended service area, Bell Atlantic's current service area, is in the public good, thus meeting the requirement of Puc 1304.01(a)(3). In making this finding, as directed by RSA 374:22-g, we have considered the interests of competition, fairness, economic efficiency, universal service, carrier of last resort, the incumbent's opportunity to realize a reasonable return on its investment, and recovery by the incumbent of expenses incurred. This finding is further supported by the Telecommunications Act of 1996 (TAct). Because Maxcess has satisfied the requirements of Puc 1304.01(a), we will grant certification.

As part of its application, Maxcess agreed to abide by Bell Atlantic's present and future rates for intraLATA switched access or to charge a lower rate. If, at any point, Maxcess seeks to exceed Bell Atlantic's access rates it shall first contact the Staff

to review the proposal. The Commission will monitor access rates as the intraLATA toll and local exchange markets develop. CLECs charging higher access rates than they, in turn, pay Bell Atlantic could inhibit intraLATA toll competition which would call into question Section 253 of the Tact.

We note that as new competitors enter the market, greater pressure is put on the 603 area code, so long as today's antiquated number assignment process remains in effect. Accordingly, we will require that Maxcess request and use numbers responsibly and conservatively, and to join in exploring alternative mechanisms to use existing numbers as efficiently as possible and thereby avert the need for a new area code. By granting this authority Maxcess is required to comply with our orders on number conservation including Order No. 23,385 issued January 7, 2000 and Order No. 23,392 issued January 27, 2000 as well as further orders issued by the Commission concerning this matter.

Based upon the foregoing, it is hereby

ORDERED NISI, that Maxcess's petition for authority to provide switched and non-switched intrastate local exchange telecommunications services in the service territory of Bell Atlantic, is GRANTED, subject, inter alia to the requirements of Puc 1304.03; and it is

FURTHER ORDERED, that Maxcess, Inc. is required to comply

with our Order No. 23,385 issued January 7, 2000, Order No. 23,392 issued January 27, 2000, and further orders issued by the Commission concerning number conservation; and it is

FURTHER ORDERED, that request for waiver of the surety bond requirement per Puc 1304.02(b) is granted; and it is

FURTHER ORDERED, that the Petitioner shall cause a copy of this Order Nisi to be published once in a statewide newspaper of general circulation, such publication to be no later than May 23, 2000 and to be documented by affidavit filed with this office on or before June 15, 2000; and it is

FURTHER ORDERED, that all persons interested in responding to this Order Nisi shall submit their comments or file a written request for a hearing on this matter before the Commission no later than June 2, 2000; and it is

FURTHER ORDERED, that this Order Nisi shall be effective June 15, 2000, unless the Commission provides otherwise in a supplemental order issued prior to the effective date; and it is

FURTHER ORDERED, that the Petitioner shall file, ten days prior to commencing service, a rate schedule including the name, description and price of each service, with the Commission in accordance with N.H. Admin. Rules, Puc 1304.03(b).

By order of the Public Utilities Commission of New
Hampshire this sixteenth day of May, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Thomas B. Getz
Executive Director and Secretary